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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,314	11/13/2001	Paul F. Nugent JR.	9868.00	5408

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EXAMINER

PAIK, STEVE S

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,314

Applicant(s)

NUGENT, PAUL F.

Examiner

Steven S. Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaltner (USP 5,059,951) in view of Baitz et al. (USP 5,412,191, hereinafter Baitz).

Regarding claims 1 and 3-6, Kaltner discloses a point-of-sale data capturing check-out system comprises a computer (POS data system inherently comprises a computer or a kind of computing device), a barcode reader (5 in Fig. 1 and col. 3, ll. 12-16) coupled to the computer (Fig. 1) for reading a barcode label (4) on an item (19 in Fig. 2) and a security system (12 and 13 and col. 4, ll. 20-26) coupled to the computer and activated by the barcode reader (5) following reading of the barcode label which includes a field generator (21 in Fig. 3 and col. 6 ll. 45-16) for deactivating a security label (col. 6, ll. 7-12 and ll. 49-56) on the item (19); and a sensor for sensing placement of the item within range of the field generator (col. 6, ll. 53-57 discloses a situation of an operator placing the item close to an acceptable operating range and the system providing an audible signal when a label with an operational resonant circuit is encountered). He further discloses implicitly the audible signal functions as a method of communicating a message to the operator by instructing him or her that a resonant circuit is encountered. Although a POS inherently includes a display to enhance communication between an operator and a customer, he does not specifically disclose a display of a message instructing a command to a user.

Baitz discloses a service desk such as a check-in or check-out system with self-service mode and assisted-service mode comprising, among other things, at least one reader (26) for machine-readable data and a movable pop-up housing display unit (28, col. 1, ll. 62-67 and col. 2, ll. 1-3). The display unit allows the user (operator/customer) to receive appropriate instructions according to a desired task (col. 5, line 67). It is encased in a housing (128 in Figs. 3 and 4) which can be raised above the front side (118, see Fig. 4)) or be essentially parallel or perpendicular to the front side for the purpose of allowing user the maximum flexibility and increased convenience with the display unit.

In view of Baitz's teaching, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ a movable display unit aiding its user with corresponding message or instructions to perform a desired function in addition to the point-of-sale data capturing check-out system of Kaltner due to the fact that more efficient communications can be exchanged between an operator and a user for the purposes of saving time, reducing the possibility of making unnecessary mistake while completing a transaction. Furthermore, such modification of employing a movable display unit to the teachings of Kaltner would have been an obvious matter of design variation, well within the ordinary skill in the art, and therefore an obvious expedient.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaltner (USP 5,059,951) as modified by Baitz et al. (USP 5,412,191, hereinafter Baitz) as applied to claim 1 above, and further in view of Larson et al. (USP 6,369,709).

Regarding claim 2, Kaltner as modified by Baitz disclose the point-of-sale data capturing check-out system including all of the features of the claimed invention with the exception of specific teaching of the sensor being operational only during self-service checkout operation.

Kaltner in view of Baitz teaches the check-out system is operational for both self-service check out mode and assisted-service check out mode. The modes have a close relationship with a physical location of a user referenced to the check-out system, but do not interfere the fundamental functions of a check-out system. In other words, if a customer takes care of the retail transactions by himself or herself using the same check-out system, the same check-out system may be called as in the self-service mode.

Larson discloses a self-service library check-out terminal comprising, among other things, means for input, means for reading machine-readable codes, printer, audible transducer and a proximity sensor. The sensor may be used to detect when a library patron has approached the self-service terminal (col. 6, ll. 33-36), and the audible transducer may be used to provide audible feedback to the patron. Both devices are used to properly desensitize a security marker to promote a proper check-out of items in a library.

Therefore, it would have been obvious at the time the invention was made to a person having of ordinary skill in the art to have designed a checkout system having a sensor enabled only during self-service check-out operation as taught by Larson et al. for the purpose of promoting a proper check-out of items such as books, video tapes and magazines and so forth with a security marker by using a sensor to accurately desensitize the security marker. Since some check-out systems are operational both in the self-service mode and the assisted-service

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mode, designing a checkout system having a sensor enabled only during self-service check-out operation is an obvious matter of design choice.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Swartz et al. (USP 5,979,758) discloses a self-check out apparatus for processing a sales transaction of an article having an attached surveillance tag.

Ghaffari (USP 6,169,483) discloses a self check-out/self check-in and electronic article surveillance (EAS) system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 703-308-6190. The examiner can normally be reached on Mon - Fri (7:00am-3:30pm).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-6893 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0530.

Steven Paik

Steven S. Paik
Examiner
Art Unit 2876

ssp
October 4, 2002


MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
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